

## **IN THE CLAIMS**

**Please cancel without prejudice claims 2-39 and add claims 40-63. A list of the pending claims follow.**

### **PENDING CLAIMS**

1. (Original) A biopsy instrument for retrieving body tissue, having a longitudinal axis and comprising:

a distal end adapted for entry into a patient's body; and

a cutting element disposed on said instrument, said cutting element being actuatable between a radially retracted position and a radially extended position, relative to said axis, and being movable in said radially extended position to isolate a desired tissue specimen from surrounding tissue by defining a peripheral margin about said tissue specimen.

2-39 (Canceled)

40. (New) A biopsy device for isolating one or more tissue specimens from an intracorporeal site within a patient's body, comprising:

- a. an elongated shaft having proximal and distal ends, a longitudinal axis and a housing on the proximal end;
- b. a distal tip on the distal end configured for penetration through tissue of the patient's body to gain access to the intracorporeal site therein;
- c. a first electrosurgical tissue cutting element which is disposed on the elongated shaft proximal to the distal tip, which is expandable from a retracted position to a radially extended position relative to the longitudinal axis, and which is movable in the radially extended position when powered

by RF energy to isolate a tissue specimen from surrounding tissue at the intracorporeal site; and

- d. an electrical conductor which is configured to electrically interconnect the proximal electrosurgical tissue cutting element with a source of RF energy.

41. (New) The biopsy device of claim 1 wherein the first electrosurgical tissue cutting element is rotatable at least in part about the longitudinal axis independent of the distal tip.

42. (New) The biopsy device of claim 40 wherein the distal tip has a second electrosurgical tissue cutting element secured thereto to facilitate penetration of tissue to the intracorporeal site.

43. (New) The biopsy device of claim 42 wherein the electrosurgical tissue cutting element secured to the distal tip of the shaft has a curvilinear cutting surface;

44. (New) The biopsy device of claim 42 wherein the second electrosurgical tissue cutting element secured to the distal tip is a monopolar electrode.

45. (New) The biopsy device of claim 42 wherein the second electrosurgical tissue cutting element secured to the distal tip is a bipolar electrode.

46. (New) The biopsy device of claim 42 wherein the second electrosurgical tissue cutting element secured to the distal tip is configured to receive RF electrical energy.

47. (New) The biopsy device of claim 42 wherein the second electrosurgical tissue cutting element secured to the distal tip is in part distally spaced away from the distal tip.

48. (New) The biopsy device of claim 40 the first electrosurgical tissue cutting element comprises a monopolar electrode.

49. (New) The biopsy device of claim 40 wherein the first electrosurgical tissue cutting element comprises a bipolar electrode.

50. (New) The biopsy device of claim 40 wherein the first electrosurgical tissue cutting element has a distal end secured to the elongated shaft and a proximal end which is configured to be moved longitudinally to radially move the first electrosurgical tissue cutting element.

51. (New) The biopsy device of claim 40 wherein the first electrosurgical tissue cutting element is configured to segment a tissue specimen after it has been isolated from the surrounding tissue.

52. (New) The biopsy device of claim 40 wherein the first electrosurgical tissue cutting element is configured to segment a tissue specimen as it is being retracted from a radially extended position to a radially retracted position.

53. (New) The biopsy device of claim 40 wherein the first electrosurgical tissue cutting element is radially expandable to a plurality of radially extended positions.

54. (New) The biopsy device of claim 53 wherein the first electrosurgical tissue cutting element is rotatable at least in part about the longitudinal axis in a plurality of radially extended positions.

55. (New) The biopsy device of claim 40 wherein the elongated shaft has an inner lumen for removing all or part of a tissue specimen from the patient's body.

56. (New) The biopsy device of claim 40, including an outer sheath which is disposed about the elongated shaft.

57. (New) The biopsy device of claim 56 wherein the outer sheath is axially movable between a distal position covering at least in part the first electrosurgical tissue cutting element and a proximal position uncovering at least part of the first electrosurgical tissue cutting element.

58. (New) The biopsy device of claim 40 wherein a driver unit is disposed in the housing for controlling radial expansion and retraction and rotation of the first electrosurgical tissue cutting element.

59. (New) The biopsy device of claim 58 wherein the driver unit further controls axial movement of the shaft and axial movement of said sheath.

60. (New) The biopsy device of claim 40 including at least one encapsulation element.

61. (New) The biopsy device of claim 60 wherein at least one encapsulation element is radially extendable from a radially retracted position to a radially extended position.

62. (New) The biopsy device of claim 40 wherein the first electrosurgical tissue cutting element isolates a desired tissue specimen from surrounding tissue by defining a peripheral margin about at least part of the tissue specimen when the first electrosurgical tissue cutting element is rotated at least in part around the longitudinal axis when electrically connected to a RF electrical power source.